

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JUNE 30, 2003
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 2:09 p.m. Mayor Murphy introduced his friends Wolfgang and Judy Meister who are visiting from the East Coast. The meeting was recessed by Mayor Murphy at 3:40 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:54 p.m. with all Council Members present. Mayor Murphy adjourned the meeting into Closed Session at 5:20 p.m. to discuss pending and potential litigation and Meet and Confer Matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present
- Clerk-Abdelnour (er)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Pastor Julio Tabuenco of the Seventh Day Adventist Church.

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

ITEM-30: San Diego Unified School District Teacher of the Year Day.

**COUNCILMEMBERS PETERS', MAIENSCHIN'S AND MADAFFER'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2003-1473) ADOPTED AS RESOLUTION R-298127

Declaring June 30, 2003, to be “San Diego Unified School District Teacher of the Year Day” in the City of San Diego, in honor of teachers Joan Boyle of Jackson Elementary, Jami Wright of Muirlands Middle School, and John King of Scripps Ranch High School.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:13 p.m. - 2:20 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-31: San Diego’s Sister City of Vladivostok, Russia, Girls’ Choir Day.

COUNCILMEMBER MAIENSCHIN’S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1494) ADOPTED AS RESOLUTION R-298128

Proclaiming June 30, 2003 to be “Vladivostok, Russia, Girls’ Choir Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:34 p.m. - 2:46 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-32: Robert Villarreal Day.

COUNCILMEMBERS MADAFFER'S AND INZUNZA'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1484) ADOPTED AS RESOLUTION R-298129

Recognizing Robert Villarreal for his outstanding service, leadership, and commitment to area residents;

Proclaiming June 30, 2003, to be "Robert Villarreal Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:29 p.m. - 2:34 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-50: Wastewater System Financing Program.

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 6/17/2003 (Council voted 9-0):

(O-2003-161) ADOPTED AS ORDINANCE O-19194 (New Series)

Approving the form of and authorizing the issuance of not to exceed \$1,200,000,000 aggregate principal amount of the public facilities financing authority of the City of San Diego subordinated Sewer Revenue Bonds, Series 2003A and Series 2003B (payable solely from subordinated installment payments secured by Wastewater System Net Revenues); approving the form of an indenture and approving the form of and authorizing the execution and delivery of a First Amendatory Supplement and a 2003 Supplement to the Master Installment Purchase Agreement relating to an installment purchase financing and approving certain other agreements and actions in connection therewith.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-51: Wholesale Food Warehouse Ordinance.

(See letter from Gary W. Erbeck dated 3/18/2003.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2003-164) INTRODUCED, TO BE ADOPTED ON MONDAY,
JULY 14, 2003

Introduction of an Ordinance amending Chapter 4, Article 2, of the San Diego Municipal Code by adding new Division 14, Sections 42.1401, 42.1402, 42.1403, 42.1404, 42.1405, 42.1406, 42.1407, 42.1408, 42.1409, 42.1410, 42.1411, 42.1412, 42.1413, 42.1414, 42.1415, 42.1416, 42.1417, 42.1418, 42.1419, 42.1420, 42.1421, 42.1422, 42.1423, 42.1424, 42.1425, 42.1426, 42.1427, 42.1428, 42.1429, 42.1430, 42.1431, 42.1432, 42.1433, 42.1434, 42.1435, 42.1436, 42.1437, 42.1438, 42.1439, 42.1440, 42.1441, 42.1442, 42.1443, 42.1444, 42.1445, 42.1446, 42.1447, 42.1448, and 42.1449, relating to Food and Housing.

**PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE'S
RECOMMENDATION:**

On 6/11/2003, PS&NS voted 5 to 0 to approve and forward to the City Council a proposed ordinance amending the San Diego Municipal Code by adding new Division 14 and Sections as identified in the Regulation of Food Warehouses proposed ordinance. (Councilmembers Zucchet, Atkins, Lewis, Maienschein and Frye vote yea.)

SUPPORTING INFORMATION:

In late 2002, the County of San Diego investigated complaints concerning conditions at wholesale food warehouses, which store food prior to distributing to restaurants and groceries, and found evidence of rodent infestations, mishandling of recalled food, and other conditions that could lead to food borne illness. The County is unable to address this problem adequately based on state law. While retail food facilities are subject to a comprehensive state regulatory program that is administered by the County, State law contains only a few basic sanitary requirements for most wholesale food warehouses. There are no inspections of these warehouses currently being conducted. The County responded to these problems by enacting a County ordinance in December 2002, with the support of the California Restaurant Association San Diego Chapter, the San Diego County Food and Beverage Association, and the California Independent Grocers and Convenience Stores. The ordinance establishes a mandatory permit program, with annual fees based on facility size charged to the warehouses to support program costs. (Fees for 2004 are \$350 for facilities under 10,000 s.f. in size and \$425 for facilities 10,000 s.f. or larger). Facilities required to have permits must submit to regular inspections, and must comply with the substantive requirements set out in the ordinance.

The County has identified approximately 200 wholesale food warehouses in San Diego County, approximately 60 of them located within the City of San Diego. To be truly protective, this program needs to be applied county wide and the County would like to administer it, as it now administers other public health and environmental health programs. The County has requested that the City adopt an ordinance to allow the County to administer this program on our behalf. In response, a City ordinance has been prepared to provide the County of San Diego with authority to inspect wholesale food warehouses, investigate violations, and educate warehouse owners on regulations. The ordinance gives the County officials the ability to issue permits to wholesale food warehouses and establish administrative remedies for violation. Elements of the warehouse ordinance include plan review, permits, temperature requirements, sanitation, plumbing, structural, food compartments, food transport, and permit suspension/revocation. It is recommended that the City Council approve this ordinance.

All other cities in the County, with the exception of two that have zoning regulations in place prohibiting the location of wholesale food warehouses within their jurisdictions, have or are in the process of approving ordinances to allow the County to administer this program on their behalf.

FISCAL IMPACT:

There is no fiscal impact to the City associated with this ordinance.

Herring/Coalson

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-100: Inviting Bids and Award of Contract for the Construction of North Torrey Pines Road Bridge over Los Peñasquitos Creed (Bridge No. 57C-206).

(Torrey Pines Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-16) ADOPTED AS RESOLUTION R-298130

Authorizing the City Manager to apply for a modification to Program Supplement No. 089-R1, to the Local Agency-State Agreement for Federal-Aid Project Number 11-5004 (007) and accept a total of \$9,100,000 of Highway Bridge Rehabilitation and Replacement (HBRR) Funds for CIP-53-050.0, from Fund 38734;

Authorizing the City Auditor and Comptroller to accept an amount not to exceed \$9,100,000 from Fund 38734;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2003 Capital Improvements Program Budget for CIP-53-050.0, Replacement of North Torrey Pines Road Bridge over Los Peñasquitos Creek, by \$1,120,000, from the previous Council approved budget of \$11,075,000 to \$12,195,000, contingent upon receipt of a fully executed modified Program Supplement and FNM-76 (Version E-76) Caltrans Funding Authorization;

Authorizing the expenditure of an amount not to exceed \$9,100,000 from Fund No. 38734 for engineering design and construction costs for CIP-53-050.0, contingent upon receipt of a fully executed modified Program Supplement and FNM-76 (Version E-76) Caltrans Funding Authorization, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Manager, after advertising for bids in accordance with law, to award the Project contract to the lowest responsible and reliable bidder;

Approving the plans and specifications for the construction of North Torrey Pines Road Bridge over Los Peñasquitos Creek (Bridge No. 57C-206) on Work Order No. 119536;

Authorizing the City Manager, if needed, to secure future modifications to Program Supplement No. 089-R1;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K03765)

CITY MANAGER SUPPORTING INFORMATION:

The project proposes to replace the structurally deficient North Torrey Pines Road Bridge over Los Peñasquitos Creek with a new bridge approximately 340 feet in length. The project will also provide approach roadways, sidewalk on the west side, bike lanes, two bus turnouts, and two ADA compliance access ramps to the beach on the north side, connecting under the bridge.

In order to minimize traffic disruptions, two through-lanes will be maintained throughout the project.

FISCAL IMPACT:

The project was previously authorized for a total amount of \$3,095,000. This current action will authorize the project to go to construction and authorize the appropriation of \$9,100,000 in additional Federal funding, of which \$620,000 will be engineering design costs and \$8,480,000 will be construction costs.

Total Estimated Project Cost:	\$12,195,000
Federal Funds	\$10,000,000
City Funds	\$ 2,195,000

Loveland/Belock/PB

FILE LOCATION: CONT - FCI Constructors, Inc.; W.O. 119536

COUNCIL ACTION: (Time duration: 2:54 p.m. - 3:40 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-101: Pipeline Rehabilitation in the ROW and Easements - Phase "A" - Change Order #6.

(See memorandum from Scott Tulloch dated 5/21/2003.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1496) ADOPTED AS RESOLUTION R-298131

Authorizing the City Manager to enter into negotiations with Insituform Technologies, Inc. for Change Order #6, and to execute said Change Order in an amount not to exceed \$4,526,000, in connection with the contract for Pipeline Rehabilitation in Rights-of-Way and Easements, Phase A;

Authorizing the expenditure of an amount not to exceed \$4,526,000 from Sewer Fund No. 41506, CIP-46-506.0, Pipeline Rehabilitation in ROW and Easements - Phase A, to provide funds for the above Change Order #6 when negotiated, contingent upon passage of the Fiscal Year 2004 Budget Capital Improvement Program and Appropriation Ordinance;

Authorizing the City Auditor and Comptroller to transfer excess budgeted funds, if any, to the appropriate reserves on advice of the administering department.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 5/28/2003, NR&C voted 5 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

The Pipeline Rehabilitation in the ROW and Easements, Phase "A" Contract is in the process of rehabilitating 26 miles of sewer mains. On October 10, 2001, the City Council authorized Resolution Number R-295526 to execute a construction contract with the lowest responsible bidder and the contract was awarded to Insituform Technologies, Inc. for \$11,965,336.

The contract was developed based on Wastewater Collection Division's maintenance logs and sewer spills reports. Since there was no video of either sewer mains or laterals for any of the scooped work, the contract was structured with multiple bid items for the type of work that might be discovered during video inspection, allowing the Contractor to completely rehabilitate the identified sewer segments. The contract quantities were based on the as-built drawings and field book information. Video inspection of sewer mains and laterals disclosed an increase in quantities from what was specified in the contract due to the presence of heavy roots not only in sewer mains but also in service laterals. Upon completion of 50% of the total contract work, significant increases in the contract quantities have been discovered:

- C 27% increase of cleanouts needed to be installed (approx. \$453,000)
- C 27% increase of service lateral connections to be installed (approx. \$741,000)
- C 28% increase of service laterals to be de-rooted (approx. \$153,000)
- C 28% increase of service laterals to be lined (approx. \$1,800,000)
- C 52% increase of sewer manhole bases to be rehabilitated (approx. \$229,000).

In addition, due to different site conditions, the contractor needs to install 35 end of line manholes to rehabilitate deteriorated sewer mains (approx. \$350,000) and upsize approximately 100 deteriorated 3" service laterals (approx. \$800,000). It is recommended that this work be added to the existing scope of the Phase A contract through Change Order #6 (the unit prices for this work will remain the same as in the original contract) for an amount not to exceed \$4,526,000, to ensure achievement of our goal of improving the aging sewer system, reducing maintenance costs, and reducing sewer spills. Insituform Technologies, Inc. is a publicly traded company. Mr. Anthony Hooper is the Chief Executive Officer (CEO) and President.

FISCAL IMPACT:

This request is for \$4,526,000 and will be available in Sewer Fund 41506, CIP-46-506.0, contingent upon the approval of the Fiscal Year 2004 Capital Improvement Program and Appropriation Ordinance.

Mendes/Tulloch/MPL

Aud. Cert. 2400016.

FILE LOCATION: CONT - Insituform Technologies, Inc.; W.O. 177291

COUNCIL ACTION: (Time duration: 2:51 p.m. - 2:54 p.m.)

MOTION BY PETERS TO ADOPT. Second by Frye. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-102: Colina Del Sol Community Park Tot Lot Upgrade.

(Mid-City Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1477) ADOPTED AS RESOLUTION R-298132

Authorizing the City Auditor and Comptroller to amend the Fiscal Year 2003 budget by increasing \$10,000 in CIP-29-838.0, Colina Del Sol Community Park Tot Lot Upgrade, CDBG Fund No. 18538;

Authorizing the City Auditor and Comptroller to appropriate and expend \$10,000 from CIP-29-838.0, Colina Del Sol Community Park Tot Lot Upgrade, CDBG Fund No. 18538;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The existing Colina Del Sol Neighborhood Park is located on Orange Avenue in the community of Mid-City. The proposed tot lot upgrade will provide park users with new playground equipment and picnic benches. These improvements will comply with the Americans with Disabilities Act (ADA) requirements. This request will transfer additional funds into the project to allow for the replacement of the deteriorated perimeter curb around the tot lot area.

FISCAL IMPACT:

The estimated project cost is \$303,000, of which \$293,000 has been previously approved. The remaining funds (\$10,000) are available in CDBG Fund No. 18538.

Loveland/Belock/AO

Aud. Cert. 2301242.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-103: Approval Of Documents - Wastewater System Financing Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-14) ADOPTED AS RESOLUTION R-298133

Approving the form and authorizing the execution and delivery of a continuing Disclosure Certificate, a Purchase Contract, an Official Statement and an Appointment Agreement relating to an Installment Purchase financing and approving certain other agreements and actions in connection therewith.

CITY MANAGER SUPPORTING INFORMATION:

On June 17, 2003, the City Council introduced an ordinance approving the form of and authorizing the execution and delivery of the financing documents necessary to issue bonds to finance the fifth phase of the approved Wastewater System Capital Improvements Program.

With today's action, the Council approves the form of and authorizes the execution to the Preliminary Official Statement, the Continuing Disclosure Certificate, the Instrument of Appointment and Acceptance which appoints Wells Fargo Bank as trustee, and the Bond Purchase Agreement, all of which are necessary to issue the bonds, which are expected to be sold during the second week of September.

FISCAL IMPACT:

None.

Frazier/Vattimo/EA

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-104: Black Mountain Ranch South Neighborhood Park - Reimbursement Agreement.

(Black Mountain Ranch Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1467) ADOPTED AS RESOLUTION R-298134

Authorizing the City Manager to execute the Park Reimbursement Agreement for the Black Mountain Ranch South Neighborhood Park (Agreement) with Santa Luz, LLC, for acquisition, design, and construction of the Black Mountain Ranch South Neighborhood Park (Project);

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$1,430,200, contingent upon certification by the City Auditor and Comptroller that the revenues are available at the time reimbursement is scheduled from the Black Mountain Ranch Facilities Benefit Assessment, Fund No. 79012, for this Project.

CITY MANAGER SUPPORTING INFORMATION:

The proposed Black Mountain Ranch South Neighborhood Park (also known as South Village Neighborhood Park) is approximately 4.4 acres in size and is located within the “Vesting Tentative Map” area of the Black Mountain Ranch Community adjacent to the South Village area. The design and construction of the park will be a turn-key project to expedite completion of the project. Santa Luz, as required by the Second Amended and Restated Development Agreement, Document No. 18387 approved by City Council on March 17, 1997 and as amended by a letter agreement, dated June 1, 2001, will advance funds to construct the park.

They will be reimbursed for acquisition, design and construction per the agreement, which is the subject of this action today. Santa Luz will be reimbursed in either FBA credits or cash. Cash reimbursements will occur as provided in the current Black Mountain Ranch Public Facilities Financing Plan, or as cash becomes available if not available when called for by the plan. The plan calls for reimbursement in FY 2005 and 2006.

FISCAL IMPACT:

All approved costs associated with the acquisition, design and construction of this project are funded through the Black Mountain Ranch Facilities Benefit Assessment, Fund No. 79012. Annual maintenance costs are estimated to be \$50,000. The funding for these costs will be requested as a new facility through the proposed Park & Recreation Department budget for the fiscal year in which the project will be completed.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-105: Black Mountain Ranch Community Park - Reimbursement Agreement.

(Black Mountain Ranch Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1468 Cor. Copy) ADOPTED AS RESOLUTION R-298135

Authorizing the City Manager execute the Park Reimbursement Agreement for the Black Mountain Ranch Community Park (Agreement) with Santa Luz, LLC, for acquisition and design of a community park, as well as construction of interim improvements (Project);

Authorizing the City Auditor and Comptroller to establish the following funds:

- A) Developer Fund No. 39320, Black Mountain Ranch Community Park advance, Black Mountain Ranch Limited Partnership, with interest to accrue to the fund;
- B) Developer Fund No. 39325, Black Mountain Ranch Community Park Advance, Western Pacific Housing, with interest to accrue to the fund;
- C) Developer Fund No. 39330, Black Mountain Ranch Community Park Advance, Pardee Construction, with interest to accrue to the fund;

Authorizing the City Manager to accept funds in the total amount of \$1,999,400 from the following developers; Black Mountain Ranch Limited Partnership (\$1,000,000), Western Pacific Housing (\$725,000), and Pardee Construction Company (\$274,400) as an advance, to provide partial payment for the Project against future Facilities Benefit Assessments to the Black Mountain Ranch Community from these developers;

Authorizing the City Auditor and Comptroller to expend funds from Developer Fund Nos. 39320, 39225, and 39330, including interest, for the purpose for which they were advanced, contingent upon certification by the City Auditor and Comptroller that funds are available;

Authorizing the City Auditor and Comptroller to expend funds, contingent upon certification by the City Auditor and Comptroller that the revenues are available at the time reimbursement is scheduled, from the following funding sources;

- A) the Torrey Highlands Facilities Benefit Assessment Fund No. 79015 in the amount of \$1,258,784;
- B) the Black Mountain Ranch Facilities Benefit Assessment Fund No. 79012 in an amount not to exceed \$4,557,416;

Authorizing the City Auditor and Comptroller to repay the advanced funds, including interest, to Western Pacific Housing, Pardee Construction, and Black Mountain Ranch Limited Partnership according to the schedule in the Black Mountain Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, adopted on January 14, 2003 by Resolution R-297551, for the Project, or as cash becomes available, contingent upon certification by the City Auditor and Comptroller that funds are available.

CITY MANAGER SUPPORTING INFORMATION:

This action will provide for the acquisition of approximately 40.0 gross acres (30 usable acres), design of the entire community park, as well as provide for \$4,000,000 of interim improvements to the park. Interim improvements may include amenities, such as multipurpose sports fields, picnic areas, playground, parking lots, comfort stations, basketball courts, and walkways. The design and construction will be a turn-key project to expedite the completion of the project. By a separate, private agreement, three developers in Black Mountain Ranch have agreed to advance a total of \$2,000,000 for the construction of the interim improvements.

A fourth developer, Santa Luz, LLC, will advance the remainder of the funds and actually construct the interim improvements. Santa Luz will be reimbursed for the advances and other funding sources per the agreement, which is the subject of this action today. All reimbursements for advances from the Black Mountain Ranch Facilities Benefit Assessment Fund will occur as provided for in the current Public Facilities Financing Plan, or as cash becomes available if not available when called for by the plan. The plan calls for reimbursement in FY 2005 and 2007.

FISCAL IMPACT:

All costs associated with the acquisition, design and construction of this project are funded through the Black Mountain Ranch Facilities Benefit Assessment, Fund No. 79012 and the Torrey Highlands Facilities Benefit Assessment, Fund No. 79015. Annual maintenance costs are estimated to be \$300,000. The funding for these costs will be requested as a new Park & Recreation facility in the fiscal year budget process for the year the project is to be completed.

Herring/Oppenheim/AP

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-106: First Amendment to the Consultant Agreement for the North Torrey Pines Road Bridge over Los Penasquitos Creek Replacement (Bridge 57C-206).

(Torrey Pines Community Area. District-1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-35) ADOPTED AS RESOLUTION R-298136

Authorizing the City Manager to execute a First Amendment to Agreement with T-Y-LIN International - McDaniel, for professional services for the Project;

Authorizing the expenditure of an amount not to exceed \$322,426 from CIP-53-050.0, North Torrey Pines Road Bridge over Los Penasquitos Creek for the purpose of providing funds for the above project, contingent upon the passage of the FY 2004 Capital Improvement Program and Appropriations Ordinance budgets, and provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon direction of the City Manager, to reallocate the funding sources for TransNet funds between TransNet Cash and Commercial Paper funded projects as may be appropriate to maximize the use of TransNet Cash and minimize the use of Commercial Paper funding for CIP-53-050.0, North Torrey Pines Road Bridge over Los Penasquitos Creek;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

The project proposes to replace the structurally deficient North Torrey Pines Road Bridge over Los Penasquitos Creek with a new bridge approximately 340 feet in length. The project will also provide for improvements to approach roadway, sidewalk on the west side, bike lanes, two bus turnouts, and two ADA compliance access ramps to the beach on the north side, connecting under the bridge.

In 1999, per RR-295528, the City Council approved the consultant agreement with TY Lin International McDaniel for the preparation of plans, specifications, and estimates.

The First Amendment to the Agreement with TY Lin International McDaniel will provide for updating the plans, specifications, and estimates to current design standards, which include the new ADA requirements and provisions for stormwater collection and discharge. In addition, the amendment will also provide engineering services to incorporate conditions specified in the California Coastal Commission permit.

FISCAL IMPACT:

The total fee for providing services under this amendment is \$322,426. The base fee is \$302,426 and \$20,000 is available for additional services, if required. Funds for this action will be available in TransNet in FY04. No expenditures are anticipated to be incurred against commercial paper at this time. In an effort to defer the issuance of commercial paper, available cash in the amount of \$322,426 will be identified through our cash management process.

This amendment brings the total contract cost with TY Lin International McDaniel to \$691,784. The total estimated project cost is \$12,195,000.

Loveland/Belock/PB

FILE LOCATION: W.O. 119536

COUNCIL ACTION: (Time duration: 2:54 p.m. - 3:40 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

* ITEM-107: Agreement with SCS Engineers for Mission Bay Landfill Site Assessment.

(See City Manager Report CMR-03-123; letter from Jeoffry B. Gordon dated 6/3/2003; letter from Benjamin B. Leaf. Mission Bay Park Community Area. District-6.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1393)

ADOPTED AS RESOLUTION R-298137

Authorizing the City Manager to execute a phase funded agreement with SCS Engineers, for professional services in connection with the Mission Bay Landfill Site Assessment;

Authorizing the City Manager to establish contract funding phases for the agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Directing the City Auditor and Comptroller, in accordance with the Fiscal Year 2003 Appropriation Ordinance, to amend the Capital Improvement Program budget to add CIP-32-028.0, Mission Bay Landfill Site Assessment;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$100,000 from Refuse Disposal Enterprise Fund No. 41201, CIP-32-017.0, Annual Allocation - Groundwater Monitoring, to Refuse Disposal Enterprise Fund No. 41201, CIP-32-028.0, Mission Bay Landfill Site Assessment;

Authorizing the expenditure of an amount not to exceed \$100,000 from Refuse Disposal Enterprise Fund No. 41201, CIP-32-028.0, Mission Bay Landfill Site Assessment, to provide funds for the agreement, contingencies, and project-related costs in Fiscal Year 2003, provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the expenditure of an amount not to exceed \$500,000 from Refuse Disposal Enterprise Fund No. 41201, CIP-32-028.0, Mission Bay Landfill Site Assessment, to provide funds for the agreement, contingencies, and project-related costs in Fiscal Year 2004, contingent on passage of the Fiscal Year 2004 Appropriation Ordinance and the Capital Improvement Program budget, and provided that the City Auditor and Comptroller first furnishes one or more certificates demonstrating that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 6/11/2003, NR&C voted 5 to 0 to approve the City Manager's recommendations. (Councilmembers Zucchet, Lewis, Frye, Madaffer, and Inzunza voted yea.)

SUPPORTING INFORMATION:

The Mission Bay Landfill, located in the South Shores area of Mission Bay Park, operated from 1952 to 1959 and received approximately 2.2 million tons of municipal solid waste. Documents in the City's files indicate that the site may have accepted materials that today are considered hazardous. Seven to fifteen feet of dredge spoils (sand and silt) have been placed on the landfill since it closed in 1959, and this cover provides protection to the public utilizing the site within Mission Bay Park.

The City has been monitoring the ground and surface waters at the site since 1985 under the direction of the Regional Water Quality Control Board (currently Board Order 97-11). A Technical Advisory Committee (TAC) has been established for this project including staff from the Environmental Services Department, Development Services Department, concerned citizens, regulatory agencies, and volunteer professionals in the environmental sciences. The TAC is chaired by Councilmembers Frye and Zucchet.

As a result of TAC recommendations and due to increased public utilization and development at and near the site, this project is proposed to assess whether hazardous materials are present, their nature and extent, and any potential risks posed to public health and the environment.

Phase 1 of this project will develop a Preliminary Site Assessment Plan that describes all the field work, test methods and safety measures that will be taken. Phase 2 of this project, contingent upon approval of the FY 2004 budget, will consist of the exploratory field work, laboratory analysis, and final report with risk assessment.

FISCAL IMPACT:

This action is for authority to expend up to \$600,000 on this project, of which consultant services will be \$500,000 and contingencies and engineering total \$30,000 and \$70,000 respectively. Up to \$95,000 of the \$500,000 consultant services will be awarded in FY 2003, to complete Phase 1 of the project. The remaining \$405,000 will be awarded for Phase 2, contingent upon approval of the FY 2004 budget. All funds proposed to be expended are from the Refuse Disposal Enterprise Fund. Funds will not be expended or encumbered until such time as specific projects and funding levels are identified and the City Auditor first issues a certificate demonstrating that the necessary funds are, or will be, on deposit in the City Treasury.

Loveland/Hays/RAP

Aud. Cert. 2301169.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-108: Appointment to the Park and Recreation Board.

(See memorandum from Mayor Murphy dated June 30, 2003, with resume attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1498) ADOPTED AS RESOLUTION R-298138

Council confirmation of the appointment by the Mayor of Daniel W. Coffey to serve as a member of the Park and Recreation Board, for a term ending March 1, 2004, replacing Doug Perry, who has resigned.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-109: San Diego Regional Fire and Rescue Helicopter Program Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-9) ADOPTED AS RESOLUTION R-298139

Honoring the donors and sponsors of the Regional Fire and Rescue Helicopter Program, and thanking them for their outstanding support of the San Diego community;

Proclaiming July 1, 2003 to be "Regional Fire and Rescue Helicopter Program Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-110: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1430) ADOPTED AS RESOLUTION R-298140

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L - State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

* ITEM-111: Declaring a Continued State of Emergency due to Economic Circumstances in the San Diego-Tijuana Border Region.

(District-8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-809)

ADOPTED AS RESOLUTION R-298141

Declaring a Continued State of Emergency due to economic circumstances in the San Diego-Tijuana border region.

FILE LOCATION: GEN'L - State of Emergency due to economic circumstances in the San Diego-Tijuana border region

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

- * ITEM-112: Declaring a Continued Local Health Emergency Due to the Spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV).

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1217) ADOPTED AS RESOLUTION R-298142

Declaring a Continued Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency Virus (HIV) for the purpose of implementing a one-year clean needle and syringe exchange program.

CITY MANAGER'S SUPPORTING INFORMATION:

California Health and Safety Code section 11364.7 (effective January 1, 2000) acknowledges the public health threat posed by the sharing of needles and syringes by injection drug users. The Code requires a local jurisdiction to declare a local emergency due to the existence of a critical local public health crisis in order to establish a clean needle and syringe exchange program. In order to permit development and implementation of a pilot clean needle and syringe exchange program, today's action continues the state of emergency first declared by the City Council on November 27, 2001.

FILE LOCATION: GEN'L - Local Health Emergency due to the spread of the Hepatitis C Virus and the Human Immunodeficiency virus (HIV)

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-nay, Inzunza-not present, Mayor Murphy-nay.

- * ITEM-113: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2003-1384) ADOPTED AS RESOLUTION R-298143

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L - State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-200: This item has been removed from the docket; it was inadvertently docketed for this date.

ITEM-201: REFERRED TO CLOSED SESSION AFTER THE REGULAR MEETING

Conference with Real Property Negotiator, pursuant to California Government Code Section 54956.8:

Property: Qualcomm Stadium

City Negotiator: Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Daniel S. Barrett, and Robert J. Kheel.

Negotiating Parties: City of San Diego and the San Diego Chargers

Under Negotiation: Real Property Interests at the Qualcomm Stadium site pursuant to the recommendations of the Citizens Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

Prior to Council discussion in Closed Session and in compliance with the Brown Act, (California Government Code Section 54956.8) this item is listed on the docket only for public testimony.

There is no Council discussion of this item. The City Council's actions are:

1) Open the Public Hearing and accept testimony from any members of the public wishing to address the Council on this subject; 2) Conclude and close the public hearing; and 3) Refer the matter to Closed Session.

NOTE: Members of the public wishing to address the Council on this item should speak "in favor" or "in opposition" to the subject.

Mayor Murphy closed the hearing.

FILE LOCATION: MEET (61)

COUNCIL ACTION: (Time duration: 2:51 p.m. - 2:51 p.m.; 5:17 p.m. - 5:20 p.m.)

ITEM-250: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

Torrey Hills Unit No. 1
Torrey Hills Unit No. 4

COMMUNITY AREA

Sorrento Hills
Sorrento Hills

Torrey Hills Unit No. 6
Torrey Hills Unit No. 14

Sorrento Hills
Sorrento Hills

The "Notice of Completion and Acceptance of Subdivision Improvement Agreement" shall be recorded 15 days after this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the recording of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

ITEM-251: Notice of Completion and Acceptance of Subdivision Improvement Agreement.

Notice is hereby given that the City Manager of the City of San Diego intends to file a "Notice of Completion and Acceptance of Subdivision Improvement Agreement" indicating that the improvements included in the Subdivision Improvement Agreement have been satisfactorily completed for the following subdivisions:

SUBDIVISION

Carmel Del Mar Neighborhood 4 Unit 14
Scripps Ranch North Unit 19

COMMUNITY AREA

North City West
Scripps Ranch

The certification shall be recorded 15 days after the date this notice appears on the Council Docket or shortly thereafter. If any person wishes to object to the filing of this notice, such person should communicate the objection on or before that date to the Director of Development Services or to the Subdivision Engineer, City Operations Building, 1222 First Avenue (MS 507), San Diego, CA 92101.

* ITEM-S400: Martin Luther King, Jr. Freeway Artwork Installation.

(Mount Hope Community Area. District-4.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2003-1506) ADOPTED AS RESOLUTION R-298144

Authorizing the City Manager to submit applications to CalTrans for a Federal TEA-21 grant and a local Minor-B grant for the Project;

Authorizing the City Manager to take all necessary steps to secure the grant funds from CalTrans, to provide funds for the Project;

Authorizing the City Manager to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, and payment requests, and administer the grant funds as necessary for the completion of the Project;

Authorizing the City Manager to negotiate and execute cooperative agreements with CalTrans for the installation of artwork on the retaining walls along the Martin Luther King, Jr. Freeway;

Authorizing the City Auditor and Comptroller to establish special funds for the TEA-21 grant funds and the Local Minor-B grant funds;

Authorizing the City Manager to accept \$300,000 in Federal TEA-21 grant funds, and \$36,000 in local Minor-B grant funds, contingent upon the receipt of a fully executed cooperative agreements;

Amending the Fiscal Year 2003 Capital Improvements Program, by adding CIP-52-726.0, Martin Luther King, Jr. Freeway Artwork Installation;

Amending the Fiscal Year 2003 Capital Improvements Program Budget, by increasing CIP-52-726.0, Martin Luther King, Jr. Freeway Artwork Installation, by an amount not to exceed \$336,000, contingent upon receipt of the \$300,000 in Federal TEA-21 grant funds and \$36,000 in local Minor-B grant funds;

Authorizing the appropriation of an amount not to exceed \$336,000 in Federal TEA-21 and local Minor-B funds from the newly established funds in CIP-52-726.0, for the Project, contingent upon the receipt of a fully executed cooperative agreements;

Authorizing the expenditure of an amount not to exceed \$336,000 from CIP-52-726.0, Martin Luther King, Jr. Freeway Artwork Installation, for the purpose of providing funds for the Project, contingent upon receipt of a fully executed cooperative agreements, and provided that the City Auditor and Comptroller first furnishes a certificate certifying that funds are, or will be, on deposit with the City Treasurer.

CITY MANAGER SUPPORTING INFORMATION:

The State of California Department of Transportation has been awarded a \$300,000 TEA-21 grant from the Federal Government for the design and the installation of murals to be installed on the retaining walls of the interchange at State Route 94, State Route 15, and Home Avenue. These murals will commemorate Dr. Martin Luther King, Jr. for whom State Route 94 has been named. The State is contributing the \$36,000 in local matching funds.

The City has agreed to manage and oversee the design and installation of these murals on behalf of the State. This will include selection of the artist, overseeing the design of the murals, coordination of the plans, and construction or installation of artwork and inspection upon completion. The State will assist in this process to assure that the State and Federal guidelines are met.

Maintenance funding for five years will be provided by the \$36,000 in local matching funds, included in the \$336,000 total project cost.

The State will transfer the \$336,000 in TEA-21 and local matching funds to the City to fund this Project in its entirety.

FISCAL IMPACT:

The State will transfer \$336,000 to the City to fund this Project. No City funds will be used for this Project.

Belock/Boekamp/VW

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:47 p.m. - 2:49 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-not present, Mayor Murphy-yea.

ITEM-S401: Companion Unit Ordinance.

(Continued from the meeting of June 24, 2003, Item 330, at the request of Councilmember Maienschein, to direct staff to come back with a revision of the Companion Unit Ordinance that interprets the “most restrictive” regulations.)

Matter of approving, conditionally approving, modifying, or denying the following actions: 1)Adoption of an ordinance amending Sections 141.0303 (Companion Unit Regulations), 131.0422 (Use Regulations Table for Residential Zones), 103.0105 (General Provisions for Planned Districts), 126.0303 (When a Conditional Use Permit is Required), and 126.0704 (Exemptions from a Coastal Development Permit) of the San Diego Municipal Code and Local Coastal Program to permit companion units ministerially, as required by State law, with additional changes proposed related to process, public facilities, design, parking, and occupancy, as directed by the City’s adopted Housing Element.

The proposed Municipal Code amendments will be effective Citywide, including within the Coastal Zone, therefore the City Council’s decision requires amending the City’s Local Coastal Program. As a result, **the final decision on the proposed Municipal Code amendments will be with the California Coastal Commission.** The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment. If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Planning Department, Anna Shepherd, 202 “C” Street, MS 4A, San Diego, CA 92101, before the close of the City Council public hearing. If you wish to challenge the City’s action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

(See City Manager Report CMR-03-131. Amendments to the San Diego Municipal Code and San Diego Local Coastal Program/Addendum to EIR LDR-42-0718/PTS-4109. Citywide. Districts-All.)

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A; and adopt the resolutions in Subitems B and C:

Subitem-A: (O-2003-163) INTRODUCED WITH REVISIONS, TO BE ADOPTED
ON MONDAY, JULY 14, 2003

Introduction of an Ordinance amending Chapter 10, Article 3, Division 1, of the San Diego Municipal Code by amending Section 103.0105; amending Chapter 12, Article 6, Division 3, by amending Section 126.0303; and Division 7, by amending Section 126.0704; amending Chapter 13, Article 1, Division 4, by amending Section 131.0422; and amending Chapter 14, Article 1, Division 3, by amending Section 141.0302, all relating to companion units.

Subitem-B: (R-2003-1480) ADOPTED AS RESOLUTION R-298145

Adoption of a Resolution certifying that the information contained in Addendum to an Environmental Impact Report [EIR], LDR-42-0718 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the Companion Unit Ordinance;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above ordinance.

Subitem-C: (R-2003-1481) ADOPTED AS RESOLUTION R-298146

Adoption of a Resolution authorizing the City Manager to suspend the assessment of any monetary administrative penalties authorized under Chapter One, Article Two of the San Diego Municipal Code for any code enforcement action related to companion units for a six month period commencing on the effective date of the Ordinance in Subitem A above, when adopted.

NOTE: Hearing open. Testimony taken on 6/24/2003.

COMMITTEE ACTION:

Reviewed by Land Use and Housing Committee on 5/21/2003. Motion to approve the City Manager's Report with four recommendations: a) Modify the minimum square foot lot size to 5,000 square feet; b) Require quarterly reports from City staff to local planning groups regarding companion unit applications and approvals; c) Institute a grace period and waive the fees for illegally built units to obtain a permit so they may come into compliance - staff should return to the City Council with recommendations regarding the length of the grace period; and d) Direct the City's legislative staff to work with the State to address and correct concerns related to local jurisdictions' issues being usurped by State legislation. Districts 1, 2, 3, 6 voted yea. District 4 voted nay.

OTHER RECOMMENDATIONS:

Planning Commission on May 15, 2003, voted 7 - 0 to approve; ask the City Council to consider amnesty program; was opposition.

Ayes: Steele, Ontai, Lettieri, Schultz, Brown, Chase, Garcia

The Community Planners Committee (CPC) on April 22, 2003, voted 18-6-1 in support of the draft companion unit regulations. CPC also voted 16-7-2 to change the minimum lot size to 5,000 square feet and voted 20-5-0 to request that the Development Services Department provide quarterly reports to community planning groups on companion unit applications.

This is a matter of City-wide effect. The following community groups have taken a position on the item:

In favor: Carmel Valley, City Heights, Clairemont Mesa, San Ysidro, Serra Mesa, Torrey Hills, Torrey Pines, University City, Uptown

Opposed: Eastern, Greater Golden Hill, Normal Heights, Tierrasanta

CITY MANAGER SUPPORTING INFORMATION:

Background

As defined by the State of California and the San Diego Municipal Code, a companion unit is an attached or detached unit that provides complete independent living facilities and that serves as an accessory use to a primary single dwelling unit. Companion units differ from guest quarters, which do not provide independent living facilities (i.e., the San Diego Municipal Code does not permit kitchens in guest quarters).

State Legislation

In 1982, the State enacted legislation that requires jurisdictions in California, including charter cities, to either adopt local ordinances or use the State model ordinance to permit companion unit development. The legislation was based on finding that companion units are a potential source of affordable housing, that there is unmet need for new housing in California, that companion units are a cost effective means to provide housing without public subsidy, that they generate additional income for homeowners (thus improving their own housing affordability), and that companion units provide other non-economic benefits such as security and the ability to house elderly family members.

In 1994, the Legislature amended the statute to specify that “any second-unit ordinances adopted by local agencies should have the effect of providing for the creation of second units,” and that provisions of such ordinances “are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.”

In 2002, the Legislature further refined the requirements for local companion unit ordinances through Assembly Bill 1866 (AB 1866). AB 1866 (see Attachment 2) requires jurisdictions to permit companion units ministerially, without discretionary review or public hearing, and to prohibit restrictions that arbitrarily preclude companion units unless specific findings regarding public safety and welfare are made. AB 1866 also provides that local ordinances may not preclude companion units in single family or multi-family zones, unless doing so would limit housing opportunities. Jurisdictions must review applications for companion units ministerially beginning July 1, 2003, or be in the process of adopting an ordinance within 120 days after July 1, 2003.

FISCAL IMPACT: None.

Ewell/Goldberg

FILE LOCATION: SUBITEM A: NONE
SUBITEM B & C: MEET

COUNCIL ACTION: (Time duration: 4:03 p.m. - 5:17 p.m.)

Testimony in opposition by Rev. James Gilbert, Joe Flynn, and Lee Rittiner.

Testimony in favor by Tracey Morgan Hollingworth, Noel Nudeck, Mr. Kozachenko, Mignon Scherer, Cynthia Conger.

MOTION BY MADAFFER TO INTRODUCE THE ORDINANCE WITH REVISIONS IN SUBITEM A AS FOLLOWS: A COMPANION UNIT MAY BE ATTACHED TO OR DETACHED FROM THE PRIMARY DWELLING UNIT ON THE PREMISES; THE GROSS FLOOR AREA OF THE COMPANION UNIT SHALL NOT EXCEED 700 SQUARE FEET; FOR DETACHED COMPANION UNITS, THE MAXIMUM STRUCTURE HEIGHT IS: 1) 15 FEET WITHOUT A CHIMNEY OR FLUE; 2) 17 FEET WITH A CHIMNEY OR FLUE. ADOPT THE RESOLUTIONS IN SUBITEMS B AND C. DIRECT THE CITY MANAGER TO ADDRESS THE PENINSULA COMMUNITY PLANNING BOARDS CONCERNS AND COUNCIL MEMBER FRYE'S ADA ACCESSIBILITY CONCERNS IN A REPORT TO BE BROUGHT BACK TO COUNCIL IN SEPTEMBER. Second by Peters. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-nay, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S402: A. Tri Tran Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2003-1511) ADOPTED AS RESOLUTION R-298126

Recognizing the outstanding civic contributions of A. Tri Tran and wishing him well in his future endeavors in Sacramento;

Proclaiming June 30, 2003 to be "A. Tri Tran Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:20 p.m. - 2:29 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Mayor Murphy. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

ITEM-S403: Parking Meter Rate and Parking Citations Structure.

CITY MANAGER'S RECOMMENDATION:

Introduce the ordinance in Subitem A, and adopt the resolution in Subitem B:

Subitem-A: (O-2003-162 Rev.) INTRODUCED, TO BE ADOPTED ON
JULY 14, 2003

Introduction of an Ordinance amending Chapter 8, Article 6, Division 1, of the San Diego Municipal Code, by amending Section 86.11, to read as follows:

- a. The City Council may by ordinance establish and define parking meter zones and parking meter rates under the authority of Section 22508 of the California Vehicle Code.
- b. The Council hereby establishes a parking rate of \$1.25 per hour.
- c. In any parking meter zone, when any vehicle shall be parked in any space alongside of or next to which a parking meter is located in accordance with the provisions of this Chapter, the operator of said vehicle shall, upon entering said parking space, immediately cause to be deposited coins in the appropriate denomination according to the time interval desired within the maximum limit and the posted parking rates;

Authorizing the installation of parking meters and the necessary signs and markings be made in the above described location.

Subitem-B: (R-2004-52) ADOPTED AS RESOLUTION R-298147

Approving an increase of Five Dollars (\$5) for all applicable parking citation fees, as shown on the Parking Citation Fee Schedule;

Declaring that the Parking Revenue Distribution Policy (55/45%) is effective for all meter and parking card revenues as of July 2, 2004.

CITY MANAGER SUPPORTING INFORMATION:

At the June 23, 2003 Council Meeting, Councilmember Michael Zucchet made a motion regarding parking meter rates:

1. Increase meter rates by 25% citywide.
2. Increase all applicable parking citations by \$5.
3. Establish a Parking Task Force:
 - a. Report back to Land Use & Housing Committee by February 15, 2004.
 - b. Task Force members:
 - i. Parking District Representatives (3)
 - ii. Business Representatives (5)
 - iii. Resident Representatives (3)
 - iv. Parking Enforcement Officer (1)
 - v. Other stakeholders (new service communities)
 - vi. Support Staff from Transportation and Economic Development Departments.
 - c. Task Force will address the following issues and other as needed:
 - i. Meter rates and time limits
 - ii. Meter hours and days of service
 - iii. Additional meter installations
 - iv. Additional parking lots and structures
 - v. Parking rates at city-owned facilities
 - vi. Employee parking facilitation
 - vii. Residential parking permits
 - viii. New parking citation hardware and software systems
 - ix. Electronic parking meters that accept cash, credit, debit cards.
4. Parking revenue distribution policy (55/45%) is effective for all meter and parking card revenues as of July 1, 2004.

FISCAL IMPACT:

This is revenue neutral to the original action of \$2.6 million. \$1.3 million in parking fines and \$1.3 million in meter revenue.

Loveland/Gonzales/MR

FILE LOCATION: SUBITEM A: NONE
SUBITEM B: MEET

COUNCIL ACTION: (Time duration: 3:54 p.m. - 4:03 p.m.)

MOTION BY ZUCCHET TO INTRODUCE THE ORDINANCE IN SUBITEM A AND ADOPT THE RESOLUTION IN SUBITEM B. Second by Inzunza. Passed by the following vote: Peters-yea, Zucchet-yea, Atkins-nay, Lewis-yea, Maienschein-nay, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 5:20 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:20 p.m.)